UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
HERRERA, DIEGO D

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _17 June 2009_.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-23_ is/are pending in the application.
　　 4a) Of the above claim(s) _4,6,14,16 and 22_ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _1-3,5,7-13,15,17-21, and 23_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
　　 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
　　 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
　　 a)☐ All　b)☐ Some * c)☐ None of:
　　　 1.☐ Certified copies of the priority documents have been received.
　　　 2.☐ Certified copies of the priority documents have been received in Application No. _____.
　　　 3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
　　 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
　　 Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
　　 Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 6/17/2009 have been fully considered but they are not persuasive. In regards to applicant's arguments, wherein the application or activity running is to the highest one of a setting associated with the one application or the commenced activity and a setting associated with a selected operating profile and as disclosed by applicant in specification, the reference of Doss et al. reads on such claim language.

Doss et al. teaches that the IM program is adjusted based on availability or awareness/presence of the user through means of mobile device by posting notice of status parameter as stated in reference ¶: 14-20 and fig. 11, the Doss et al. reference reasonably reads and suggest that the telephone and the application are both dynamically determined and notified to the system. As further described by Doss et al. figs. 7 through 11 show how the dynamic contact information for a set of entities may be displayed by user as other benefits and settings are then compared to activity and other parameters as mentioned in ¶: 67-92, which makes comparison by settings associated with profile and availability settings. As understood by examiner the "highest " setting is the one set forth by the user in the reference of Doss et al. when another user or someone form the buddy list checks for availability of the user in question and operating profile is made available to that user as to the way that the user in question wants to be contacted.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

Response to Amendment

Claims 1, 5, 11, 15, and 21 have been amended.

Claims 4, 6, 14, 16, and 22 have been cancelled.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-23 are rejected under 35 U.S.C. 102 (e) as being anticipated by Doss et al. (US 20030046296 A1).

Regarding claim 1. Doss et al. discloses a mobile communications terminal (¶: 48, doss et al. teaches computing device being able to connect to server using a wired connection, or a wireless connection, hence, a mobile communications terminal), comprising:

means responsive to the commencement of an activity or the running of an application for adjusting an availability setting (¶: 14-17, Doss et al. teaches running a dynamic

contact information to instant messaging and electronic status boards, thus, when an

entity's status changes, such as from being in the office and free to being in a meeting,

the dynamic contact information will be automatically updated, hence, means

responsive to the commencement of an activity and adjusting an availability setting), to

the highest one of a setting associated with the run application or the commenced

activity and a setting associated with the selected operating profile (fig. 1-5, ¶: 8, 14-17,

20-22; Doss et al. teaches user definable settings associated with availability settings),

and

means for reporting the adjusted availability setting to or via a network (fig. 2, ¶: 43-48,

Doss et al. teaches wireless network that is applied to adjust the availability to a

network).

Regarding claim 11. Doss et al. discloses a method of setting an availability setting

relating to a mobile communications terminal, the method comprising:

detecting the commencement of an activity or the running of an application (¶ 55-59,

Doss et al. teaches detecting times and running applications due to settings set by user

automatically); and in response to a detection:

adjusting an availability setting (¶: 14-17, Doss et al. teaches running a dynamic contact

information to instant messaging and electronic status boards, thus, when an entity's

status changes, such as from being in the office and free to being in a meeting, the

dynamic contact information will be automatically updated, hence, means responsive to

the commencement of an activity and adjusting an availability setting) to the highest one

of a setting associated with the run application or the commenced activity and a setting

associated with the selected operating profile (fig. 1-5, ¶:14-17, 20-22; Doss et al.

teaches user definable settings associated with availability settings); and

reporting the adjusted availability setting to or via a network (fig. 2, ¶: 43-48, Doss et al.

teaches wireless network that is applied to adjust the availability to a network).

Regarding claim 21. Doss et al. discloses an apparatus comprising:

a processor configured to:

adjust an availability setting in commencement of an activity or a running of an

application (¶: 14-17, Doss et al. teaches running a dynamic contact information to

instant messaging and electronic status boards, thus, when an entity's status changes,

such as from being in the office and free to being in a meeting, the dynamic contact

information will be automatically updated, hence, means responsive to the

commencement of an activity and adjusting an availability setting) to the highest one of

a setting associated with the run application or the commenced activity and a setting

associated with the selected operating profile (fig. 1-5, ¶:14-17, 20-22; Doss et al.

teaches user definable settings associated with availability settings); and

report the adjusted availability setting to or via a network (fig. 2, ¶: 43-48, Doss et al.

teaches wireless network that is applied to adjust the availability to a network).

Consider claim 2. A terminal as claimed in claim 1, in which the adjusting means is

arranged to adjust the availability setting depending on the identity of the application or

the activity (¶: 14-17, Doss et al. teaches running a dynamic contact information to

instant messaging and electronic status boards, thus, when an entity's status changes,

such as from being in the office and free to being in a meeting, the dynamic contact

information will be automatically updated, hence, means responsive to the

commencement of an activity and adjusting an availability setting).

Consider claim 3. A terminal as claimed in claim 2, in which the availability setting

associated with at least one application or activity is user definable (¶: 14-17, Doss et al.

teaches running a dynamic contact information to instant messaging and electronic

status boards, thus, when an entity's status changes, such as from being in the office

and free to being in a meeting, the dynamic contact information will be automatically

updated, hence, means responsive to the commencement of an activity and adjusting

an availability setting).

Consider claim 5. A terminal as claimed in claimed 4, in which the availability setting

associated with at least one operating profile is user definable (fig. 1-5, ¶:14-17, 20-22;

Doss et al. teaches user definable settings associated with availability settings).

Consider claim 7. A terminal as claimed in claim 1, in which the adjusting means is

responsive to the ending of the activity or the ceasing of the running of the application to

restore the availability setting to its previous setting (fig. 5; ¶: 55-60, Doss et al. teaches

making determination whether availability of application will revert to another setting).

Consider claim 8. A terminal as claimed in claim 1, comprising means for allowing a

user to define a different availability setting for a predetermined network user or a group

of network users to a setting associated with other users (fig. 5, 12; ¶: 14-18, 55-63,

Doss et al. teaches different settings that are define by user to update status for buddy

lists).

Consider claim 9. A terminal as claimed in claim 1, comprising means for queuing one or more communications received in contravention of an availability setting without revealing the one or more communications to the user (¶: 21, 51-54, Doss et al. teaches displaying information of people, groups, and their statuses, storage means for accessing them is available).

Consider claim 10. A terminal as claimed in claim 1, comprising means responsive to the receipt of a communication in contravention of an availability setting for automatically sending a reply (¶: 21, 51-54, Doss et al. teaches displaying information of people, groups, and their statuses, storage means for accessing them is available).

Consider claim 12. Method as claimed in claim 11, in which the adjusting step includes adjusting the availability setting depending on the identity of the application or the activity (¶: 14-17, Doss et al. teaches running a dynamic contact information to instant messaging and electronic status boards, thus, when an entity's status changes, such as from being in the office and free to being in a meeting, the dynamic contact information will be automatically updated, hence, means responsive to the commencement of an activity and adjusting an availability setting).

Consider claim 13. A method as claimed in claim 12, in which the availability setting associated with at least one application or activity is user definable (¶: 14-21, Doss et al. teaches running a dynamic contact information to instant messaging and electronic status boards, thus, when an entity's status changes, such as from being in the office and free to being in a meeting, the dynamic contact information will be automatically

updated, hence, means responsive to the commencement of an activity and adjusting an availability setting).

Consider claim 15. A method as claimed in claim 14, in which the availability setting associated with at least operating profile is user definable (fig. 1-5, ¶:14-17, 20-22; Doss et al. teaches user definable settings associated with availability settings).

Consider claim 17. A method as claimed in claim 11, comprising detecting the ending of the activity or the ceasing of the running of the application, and in response to a detection restoring the availability setting to its previous setting (fig. 5; ¶: 55-60, Doss et al. teaches making determination whether availability of application will revert to another setting).

Consider claim 18. A method as claimed in claim 11, comprising allowing a user to define a different availability setting for a predetermined network user or a group of network users to a setting associated with other users (fig. 5, 12; ¶: 14-18, 55-63, Doss et al. teaches different settings that are define by user to update status for buddy lists).

Consider claim 19. A method claimed in claim 11, comprising queuing one or more communications received in contravention of an availability setting without revealing the one or more communications to the user (¶: 21, 51-54, Doss et al. teaches displaying information of people, groups, and their statuses, storage means for accessing them is available).

Consider claim 20. A method as claimed in claim 11, comprising automatically sending in response to the receipt of a communication in contravention of an availability setting a

reply communication (¶: 21, 51-54, Doss et al. teaches displaying information of people, groups, and their statuses, storage means for accessing them is available).

Consider claim 23. The apparatus as claimed in claim 21, further comprising that the processor is configured to allow a user to define a different availability setting for a predetermined network user or a group of network users to a setting associated with other users (fig. 5, 12; ¶: 14-18, 55-63, Doss et al. teaches different settings that are define by user to update status for buddy lists).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to DIEGO HERRERA whose telephone number is

(571)272-0907. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Diego Herrera/
Examiner, Art Unit 2617

/Lester Kincaid/
Supervisory Patent Examiner, Art Unit 2617